

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846

Judge Thomas J. Tucker

Chapter 9

**CITY OF DETROIT’S OBJECTION TO CLAIM NUMBER 3836 FILED BY
PAMELA BOOKER**

The Debtor, the City of Detroit (“City”), by and through its undersigned counsel, files this objection to claim number 3836 (“Claim No. 3836”) filed by Pamela Booker (“Objection”). In support of this Objection, the City respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 157 and 1334 and Article VII, Section A of the Plan (defined below). This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND FACTS

2. On July 18, 2013 (“Petition Date”), the City filed a petition for relief in this Court, thereby commencing the largest Chapter 9 bankruptcy case in history.

3. On November 12, 2013, the City filed its Motion of Debtor Pursuant to Sections 105 and 502 of the Bankruptcy Code, for Entry of an Order Approving Alternative Dispute Resolution Procedures to Promote the Liquidation of Certain Prepetition Claims [Doc. No. 1665] (“ADR Procedures Motion”). On December 24, 2013, this Court entered an order approving the ADR Procedures Motion [Doc. No. 2302] (“ADR Order”).

4. The Alternative Dispute Resolution Procedures (“ADR Procedures”) attached as Annex 1 to the ADR Order permitted the City to serve on claimants a

notice that the Stay/Injunction is lifted to permit the underlying claim to be liquidated in a non-bankruptcy forum consistent with the terms, conditions and limitations of Section II.E. below (a “Stay Modification Notice”). In that event, immediately upon the filing of the Stay Modification Notice, the Stay/Injunction shall be deemed modified with respect to the applicable Initial Designated Claim solely to permit the liquidation of the claim in a non-bankruptcy forum...

ADR Procedures, Section I.B, p. 4.

5. On November 21, 2013, this Court issued its *Order, Pursuant to Sections 105, 501, and 503 of the Bankruptcy Code and Bankruptcy Rules 2002 and 3003(c), Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof* [Doc. No. 1782] (“Bar Date Order”), establishing deadlines to file certain proofs of claim in this case. The Bar Date Order set the deadline to file proofs of claim as February 21, 2014 at 4:00 p.m., Eastern Time.

6. On July 9, 2014, this Court entered its *Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 3007 Approving Claim Objection Procedures* [Doc. No. 5872] (“Claims Procedures Order”), allowing the City to file omnibus objections with respect to claims that do not identify a valid basis for any liability of the City. Claim Procedures Order at 2.

7. On October 22, 2014, the City filed the *Eighth Amended Plan of the Adjustment of Debts of the City of Detroit (October 22, 2014)* [Doc. No. 8045] (“Plan”).

8. On November 12, 2014, this Court entered an Order confirming the Plan [Doc. No. 8272] (“Confirmation Order”).

9. The Plan became effective on December 10, 2014 (“Effective Date”).

10. On July 16, 2015, Pamela Booker filed her Claim No. 3836 in the amount of \$21,250.00, based on a claim of property damage from a fallen tree. See Claim No. 3836, Exhibit 4.

11. On November 3, 2015, the City served a Stay Modification Notice on Pamela Booker related to her Claim No. 3836. [Doc. No. 10250]

12. Pamela Booker did not seek to liquidate Claim No. 3836 in any non-bankruptcy court.

13. On April 18, 2018, the City filed its Sixty-Second Omnibus Objection to Certain Claims (No Valid Basis for any Liability of the City) (62nd Omnibus

Objection”). Claim Number 3836 was among the claims listed for expungement on the 62nd Omnibus Objection [Doc. No. 12769].

14. Pamela Booker filed a response to the 62nd Omnibus Objection [Doc. No. 12783] and the City filed its reply to her response [Doc. No. 12804].

15. The Court held a hearing on the 62nd Omnibus Objection on May 23, 2018 and on the same date the Court entered the *Order Setting Deadline by Which Claimant Pamela Booker Must Take Action, Regarding Claim No. 3836* [Doc. No. 12820]. The order stated that, in order to avoid the entry of an order disallowing her claim, Pamela Booker must file a lawsuit against the City in an appropriate, non-bankruptcy court to assert the subject matter of her claim. See Order, Exhibit 5.

16. On June 14, 2018, Pamela Booker filed a complaint against the City in the 36th District Court to assert her claim (Case No. 18-158792 CH, *Pamela Booker v, City of Detroit*). See Complaint, Exhibit 6. The City subsequently filed a motion for summary disposition in the matter and on September 26, 2018. The 36th District Court granted the motion for summary disposition and dismissed Pamela Booker’s case with prejudice. See 36th District Court Case Docket, Exhibit 7; Order Granting City of Detroit’s Motion for Summary Disposition, September 26, 2018, Exhibit 8.

NOTICE

17. The City has provided notice of this Objection to Pamela Booker and her attorney. In light of the nature of the relief requested, the City respectfully submits that no other or further notice of the relief requested in this Objection need be given.

RELIEF REQUESTED

18. The City files this Objection pursuant to the Bar Date Order, Section 502(b) of the Bankruptcy Code,¹ Rule 3007(c) of the Federal Rules of Bankruptcy Procedures (“Bankruptcy Rules”), seeking entry of an order disallowing and expunging Claim No. 3836 because the basis for the claim has been litigated in an appropriate, non-bankruptcy court, pursuant to order of this court, and the litigation pertaining to the claim has been resolved in favor of the City.

19. Based upon the foregoing, the City seeks entry of an order, substantially in the form annexed as Exhibit 1, expunging and disallowing Claim No. 3836 filed by Pamela Booker.

WHEREFORE, the City respectfully requests that this Court enter an order, substantially in the form attached as Exhibit 1, granting the relief requested herein

¹ Section 502 of the Bankruptcy Code applies to Chapter 9 proceedings pursuant to Section 901(a) of the Bankruptcy Code.

and granting the City such other and further relief as the Court may deem just and proper.

Dated: November 7, 2018

Respectfully submitted,

By: /s/ Marc N. Swanson

Jonathan S. Green (P33140)

Marc N. Swanson (P71149)

MILLER, CANFIELD, PADDOCK AND
STONE, P.L.C.

150 West Jefferson, Suite 2500

Detroit, Michigan 48226

Telephone: (313) 963-6420

Facsimile: (313) 496-8451

green@millercanfield.com

swansonm@millercanfield.com

and

Charles N. Raimi (P29746)

Deputy Corporation Counsel

City of Detroit Law Department

2 Woodward Avenue, Suite 500

Coleman A. Young Municipal Center

Detroit, Michigan 48226

Telephone: (313)-237-0470

Facsimile: (313) 224-5505

raimic@detroitmi.gov

ATTORNEYS FOR THE CITY OF DETROIT

EXHIBIT LIST

- | | |
|-----------|---|
| Exhibit 1 | Proposed Order |
| Exhibit 2 | Notice |
| Exhibit 3 | Certificate of Service |
| Exhibit 4 | Claim No. 3836 |
| Exhibit 5 | Order Setting Deadline |
| Exhibit 6 | Complaint |
| Exhibit 7 | 36 th District Court Case Docket |
| Exhibit 8 | Order Granting City of Detroit's Motion for Summary Disposition, September 26, 2018 |

EXHIBIT 1: PROPOSED ORDER

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846

Judge Thomas J. Tucker

Chapter 9

**ORDER SUSTAINING CITY OF DETROIT’S OBJECTION TO CLAIM
NUMBER 3836 FILED BY PAMELA BOOKER**

Upon review of the *City of Detroit’s Objection to Claim Number 3836 Filed by Pamela Booker* (“Objection”),¹ seeking entry of an order disallowing and expunging Claim No. 3836; and it appearing that this Court has jurisdiction over the Objection pursuant to 28 U.S.C. §§ 157 and 1334 and Article VII of the Plan; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Objection in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Objection is in the best interests of the City, and its creditors; and due and proper notice of the Objection having been given as provided in the Objection; and it appearing that no other or further notice of the Objection need be given; and any objections or other responses to the

¹ Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Objection.

Objection having been overruled or withdrawn; and the Court finding that the legal and factual bases set forth in the Objection and at the hearing establish just cause for the relief granted; and after due deliberation and good and sufficient cause appearing therefore;

IT IS ORDERED that:

1. The Objection is sustained.
2. Claim No. 3836 filed by Pamela Booker is hereby disallowed and expunged in its entirety, pursuant to Section 502(b) of the Bankruptcy Code.
3. The City's claims agent is authorized to update the claims register to reflect the relief granted in this Order.
4. The City is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Objection.
5. Notice of the Objection as provided therein is good and sufficient notice of such objection, and the requirements of Bankruptcy Rule 3007(a) and the local rules of the Court are satisfied by such notice.

EXHIBIT 2: NOTICE

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846

Judge Thomas J. Tucker

Chapter 9

**NOTICE OF THE CITY OF DETROIT'S OBJECTION TO 3836 FILED BY
PAMELA BOOKER**

PLEASE TAKE NOTICE THAT the City of Detroit ("City") has filed an objection to claim number 3836 ("Claim") filed by Pamela Booker because there is no basis for liability on the part of the City as the litigation related to the subject matter of the Claim has been settled in favor of the City ("Objection").

If you do not want the court to change your claim, or grant the relief requested in the Objection, then on or before **December 12, 2018**, you or your lawyer must:

1. File with the court, at the address below, a written response to the objection. Unless a written response is filed and served by the date specified, the court may decide that you do not oppose the objection to your claim.

Clerk of the Court
United States Bankruptcy Court
211 W. Fort Street, Suite 2100
Detroit, MI 48226

If you mail your response to the Court for filing, you must mail it early enough so that the Court will **receive** it on or before the date stated above. All attorneys are required to file pleadings electronically.

2. A copy of your response must also be mailed to counsel for the City:

Marc N. Swanson
Miller, Canfield, Paddock and Stone, PLC
150 West Jefferson Ave., Ste. 2500
Detroit, MI 48226

3. You must also attend the hearing on the objection scheduled to be held on **December 19, 2018** at 1:30 p.m. in Courtroom 1925, 211 W. Fort Street, Detroit, MI 28226 unless your attendance is excused by mutual agreement between yourself and the objector's attorney.

If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to your claim, in which event the hearing will be canceled and the objection sustained.

MILLER, CANFIELD, PADDOCK AND
STONE, P.L.C.

By: /s/ Marc N. Swanson
Marc N. Swanson (P71149)
150 West Jefferson, Suite 2500
Detroit, Michigan 48226
Telephone: (313) 496-7591
Facsimile: (313) 496-8451
swansonm@millercanfield.com

Dated: Dated: November 7, 2018

EXHIBIT 3: CERTIFICATE OF SERVICE

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846

Judge Thomas J. Tucker

Chapter 9

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 7, 2018, he electronically filed the foregoing *City of Detroit's Objection to Claim Number 3836 Filed by Pamela Booker* ("Objection") with the Clerk of the Court which will provide notice of the filing to all ECF participants registered in this case. A copy of the Objection was also served upon the following, via first class mail, on the same date.

Pamela Booker
16227 Wildmere St.
Detroit, MI 48221

Richelle C. Lester
Law Office of Richelle C. Lester,
PLLC
24901 Northwestern Hwy, Ste. 302
Southfield, MI 48075-2207

By: /s/ Marc N. Swanson

Marc N. Swanson
150 West Jefferson, Suite 2500
Detroit, Michigan 48226
Telephone: (313) 496-7591
Facsimile: (313) 496-8451
swansonm@millercanfield.com

Dated: November 7, 2018

EXHIBIT 4: CLAIM NO. 3836

AMENDED

In its List of Claims, the City listed your claim as a contingent, unliquidated, and disputed unsecured claim in an unknown amount. To determine if you need to file a claim, please refer to the enclosed Information About Deadlines to File Claims.

B10 (Official Form 10) (04/13) (Modified)

| | | | | | |
|--|--|-------------------------------------|--|-------------------------------------|--|
| UNITED STATES BANKRUPTCY COURT | | EASTERN DISTRICT of MICHIGAN | | CHAPTER 9 PROOF OF CLAIM | |
| Name of Debtor: City of Detroit, Michigan | | | Case Number: 13-53846 | | |
| NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. | | | | | |
| Name of Creditor (the person or other entity to whom the debtor owes money or property): | | | <div style="font-size: 2em; font-weight: bold;">FILED (1)</div> <div style="font-size: 0.8em; margin-top: 5px;">COURT USE ONLY</div> <div style="font-size: 0.7em; margin-top: 5px;"> <input type="checkbox"/> Check this box if this claim amended previously filed claim. </div> <div style="font-size: 0.7em; margin-top: 5px;"> Court Claim Number: 2015-0816 A-14 (If known) </div> <div style="font-size: 0.7em; margin-top: 5px;"> Filed on: _____ </div> | | |
| Property Owner | | | | | |
| Name and address where notices should be sent: NameID: 11566221 | | | <div style="font-size: 1.5em; font-weight: bold;">RECEIVED</div> <div style="font-size: 1.2em; margin-top: 5px;">JUL 20 2015</div> | | |
| Property Owner 16227 Wildemere Detroit, MI 48221 | | | | | |
| Telephone number: _____ email: _____ | | | <div style="font-size: 0.8em;"> <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars. </div> | | |
| Name and address where payment should be sent (if different from above): | | | | | |
| Same Kurtzman Carson Consultants | | | | | |
| Telephone number: 313-748-1877 email: _____ | | | | | |
| 1. Amount of Claim as of Date Case Filed: \$ <u>21,250.00</u> If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges. | | | | | |
| 2. Basis for Claim: <u>Property Damage from Fallen Tree</u> (See instruction #2) | | | | | |
| 3. Last four digits of any number by which creditor identifies debtor: <u>4943</u> | | | 3a. Debtor may have scheduled account as: (See instruction #3a) | | |
| 4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable | | | Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____ | | |
| 5. Amount of Claim Entitled to Priority as an Administrative Expense under 11 U.S.C. §§ 503(b)(9) and 507(a)(2). \$ _____ | | | | | |
| 5b. Amount of Claim Otherwise Entitled to Priority. Specify Applicable Section of 11 U.S.C. § _____ \$ _____ | | | | | |
| 6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6) | | | | | |
| 7. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3001(c)(3)(A). If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain: | | | | | |
| 8. Signature: (See instruction # 8) Check the appropriate box. <input type="checkbox"/> I am the creditor. <input type="checkbox"/> I am the creditor's authorized agent. <input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. <input type="checkbox"/> I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.) (See Bankruptcy Rule 3004.) I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief. | | | | | |
| Print Name: <u>Pamela Booker</u> Title: <u>Owner</u> Company: _____ Address and telephone number (if different from notice address above): <u>16227 Wildemere</u> <u>Detroit, MI 48221</u> Telephone number: <u>313-748-1877</u> email: _____ | | | (Signature) <u>Pamela Booker</u> (Date) <u>7/16/15</u> | | |

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

UNITED STATES BANKRUPTCY COURT

FOR THE EASTERN DISTRICT OF MICHIGAN

SUITE 1800

211 W. FORT STREET

DETROIT, MICHIGAN 48226

(313) 234-0020

July 17, 2015

City of Detroit Claims Processing Center
Attention: Joseph Bunning
c/o KCC
2335 Alaska Avenue
El Segundo, CA 90245

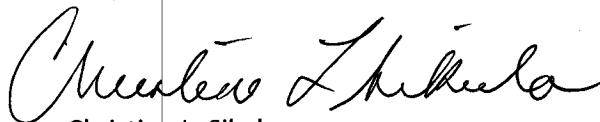
Re: City of Detroit Bankruptcy Case No. 13-53846
Amendment of Claim Number 2177 – claim of Pamela Booker

Dear Mr. Bunning.

Attached is an amendment of claim number 2177 of Pamela Booker which should be filed in the Claims Register for the City of Detroit Bankruptcy Case No. 13-53846.

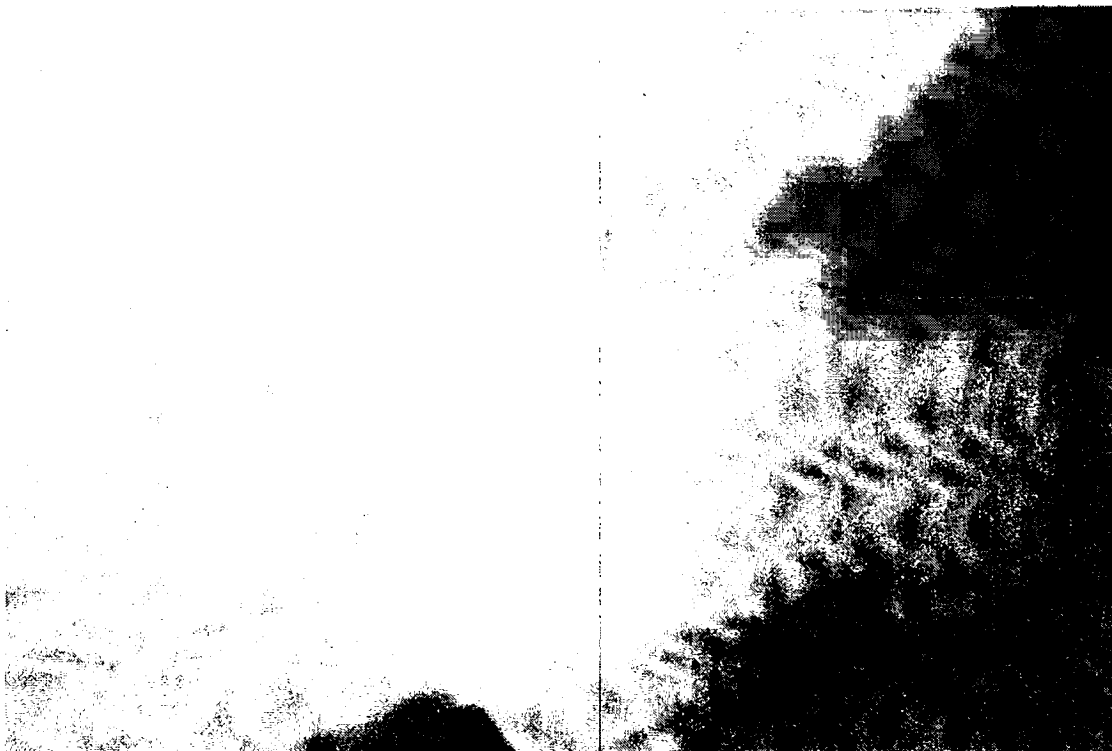
Thank you.

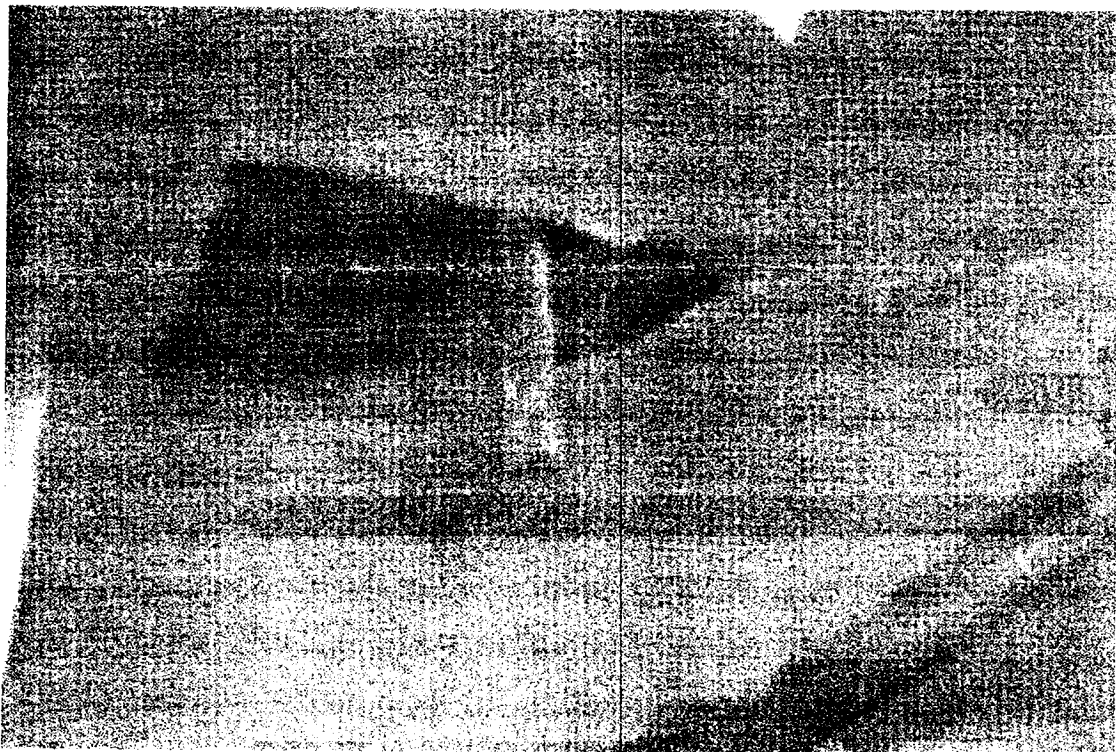
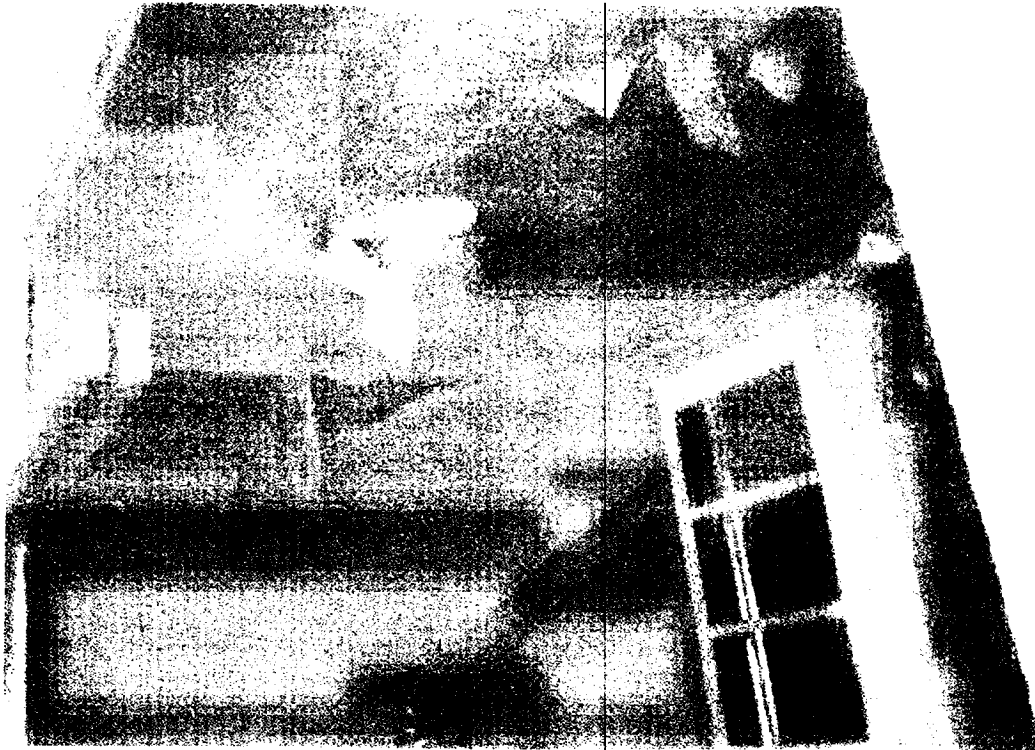
Very truly yours,

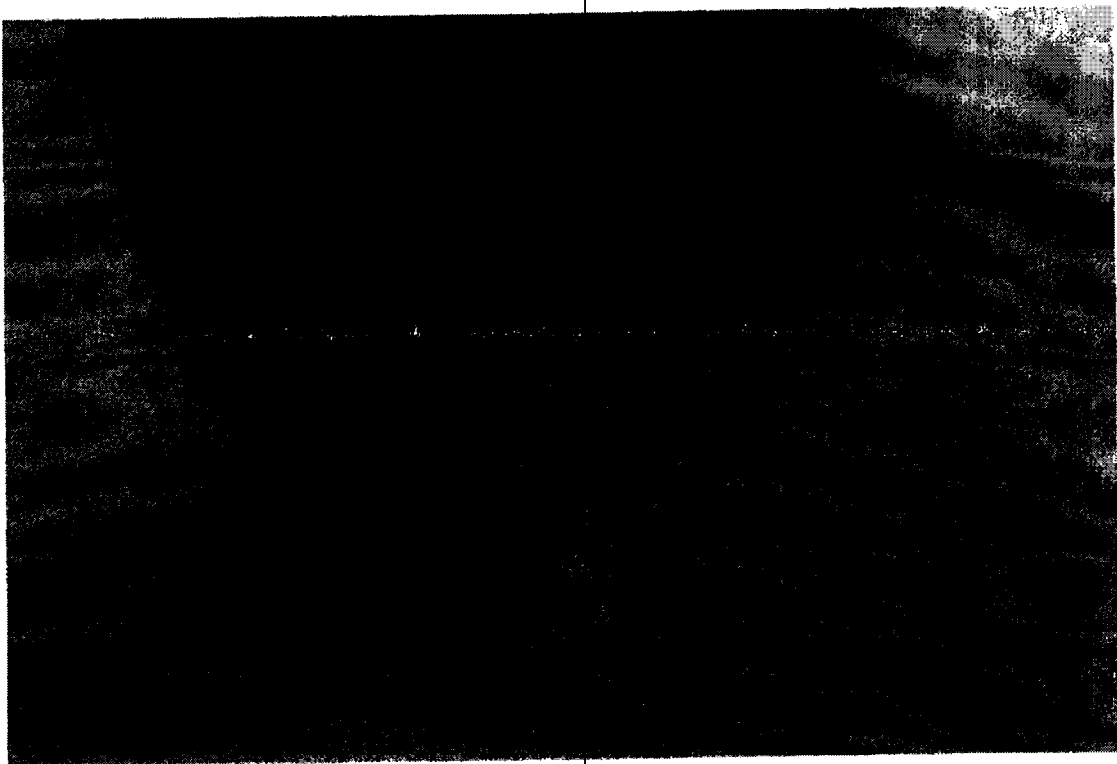


Christine L. Sikula
Courtroom Deputy

Enclosure





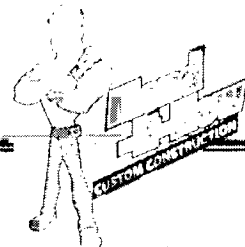




Mend It Now Custom Construction LLC

"Let Our Team Build Your Dream"

~~PO Box 66~~ ~~Garden City, MI~~ ~~48136~~



PROPOSAL AND CONTRACT

Date 07-13-15

Prepared For:

Pamela Booker
15741 Lamphere St.
Detroit, MI. 48223

Phone No.: 313-748-2877
Email: pamelabooker1@gmail.com

Mend It Now Custom Construction will Perform all Labor / Furnish all Materials necessary to complete the following:

Repair of fallen tree damage to interior of home

Living Rm.:

Ceiling drywall & flooring water damage due to being exposed to outside storm conditions from tree falling on home

Removal of damaged ceiling & flooring will be removed & replaced w/new

Underneath crawl space where living room & corner hallway meet flooring joist have rotten due to roof leakage which cause for need of home to be jacked up and damaged joist to be removed & replaced w/new & install (1) new steel floor jack

Kitchen:

Ceiling drywall & flooring water damage due to being exposed to outside storm conditions from tree falling on home

Removal of damaged ceiling & flooring will be removed & replaced w/new

Bath Rm.:

Ceiling drywall & west wall water damage due to being exposed to outside storm conditions from tree falling on home

Removal of damaged ceiling drywall & west wall will be removed & replaced

All of the above work will be completed in a substantial and workmanlike manner according to standard industry practices for the sum of:
Seven Thousand Seven Hundred Dollars \$7,700.00/100 (Dollars)

Project progress payments to be made as follows: Before work begins **\$3,850.00** will be due & final balance of **\$3,850.00** will be due upon completion.
If additional payments are needed before completion of project homeowner/client will be notified.

Please make payment payable to Mend It Now Custom Construction or Jayson Walker

Any alteration or deviations from the above specifications involving extra cost of materials or labor will only be executed upon written orders for same, and will become an extra charge over the sum mentioned in this contract. All agreements must be made in writing.

PROPOSAL ACCEPTANCE

You are hereby authorized to proceed with this project according to the specified agreement above, for which I agree to pay the amount mentioned in said proposal according to the terms thereof.

Customer Signature Print Name Date

MINCC Authorized Rep Signature Date

"Thank You for Allowing Us to Serve You"

MINCC National Home Office: 2770 Rossmere Street Colorado Springs, CO 80919

EXHIBIT 5: ORDER SETTING DEADLINE

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 13-53846

CITY OF DETROIT, MICHIGAN,

Chapter 9

Debtor.

Judge Thomas J. Tucker

**ORDER SETTING DEADLINE BY WHICH CLAIMANT PAMELA BOOKER
MUST TAKE CERTAIN ACTION, REGARDING CLAIM NO. 3836**

This case came before the Court for a hearing on May 23, 2018, on the Debtor's Sixty-Second Omnibus Objection to Certain Claims, filed April 18, 2018 (Docket # 12769, the "62nd Omnibus Claim Objection"). Claimant Pamela Booker appeared at the hearing, as did counsel for the Debtor. Confirming certain action taken during the hearing,¹ and for the reasons stated by the Court on the record during the hearing,

IT IS ORDERED that:

1. The 62nd Omnibus Claim Objection is sustained, with respect to the claim of Pamela Booker (Claim No. 3836), to the extent of the relief provided by this Order, and otherwise is overruled.
2. No later than June 22, 2018, in order to avoid the entry of an Order by this Court disallowing her claim (Claim No. 3836), claimant Pamela Booker must file a lawsuit against the City in an appropriate, non-bankruptcy court, asserting the claim which is the subject matter of her claim filed in this bankruptcy case (Claim No. 3836).
3. Pamela Booker must promptly serve the City's counsel in this bankruptcy case, Marc N. Swanson, by mail, with a copy of all items Ms. Booker files in another court in order to comply with this Order.
4. If Pamela Booker fails to timely comply with paragraph 2 of this Order, the City may file an affidavit of non-compliance and submit a proposed order disallowing Ms. Booker's claim in this bankruptcy case, and the Court may enter such order, without further notice or hearing.
5. The Clerk will serve a copy of this Order upon Pamela Booker, at the address she gave in the response she filed in this case on May 14, 2018 (Docket # 12783) (16227 Wildemere St., Detroit, MI 48221).

¹ This Order concerns only the City's objection to the claim of Pamela Booker. The remainder of the City's 62nd Omnibus Claim Objection will be decided by one or more other, separate orders to be entered.

Signed on May 23, 2018



/s/ Thomas J. Tucker

**Thomas J. Tucker
United States Bankruptcy Judge**

EXHIBIT 6: COMPLAINT

LAW OFFICE OF RICHELLE C. LESTER, PLLC

24901 Northwestern Hwy, Suite 302

Southfield, MI 48075

Cell (248) 915-8990

Fax (866) 849-6332

AttorneyRichelle@gmail.com

www.AttorneyRichelle.com

JUN 20 2018

June 18, 2018

Miller, Canfield, Paddock & Stone

Marc N. Swanson

150 W. Jefferson, Suite 2500

Detroit, MI 48226

Re: Pamela Booker v. City of Detroit

Case No. 15-158792 CH

Dear Mr. Swanson:

Enclosed please find a Summons and Complaint in reference to the above captioned matter pursuant to the Honorable Judge Thomas J. Tucker's Order.

Call me if there are any questions.

Sincerely,



Richelle C. Lester

Attorney at Law

Enclosures

| | | | |
|------|---|------------------------------|--|
| 36th | STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE | SUMMONS AND COMPLAINT | CASE NO. 18158792 JDG:K.ROBBINS |
|------|---|------------------------------|--|

Court address

421 Madison Ave., Detroit, MI 48226

Court telephone no.

Plaintiff's name(s), address(es), and telephone no(s).

Pamela Booker
16227 Wildemere
Detroit, MI 48221

Defendant's name(s), address(es), and telephone no(s).

City of Detroit, a Michigan Municipal Corporation
c/o City of Detroit Law Department
Two Woodward Ave.
Detroit, MI 48226

Plaintiff's attorney, bar no., address, and telephone no.

Richelle C. Lester P53383
Law Office of Richelle C. Lester, PLLC
24901 Northwestern Hwy, Suite 302
Southfield, MI 48075
248-915-8990 attorneyrichelle@gmail.com

SUMMONS NOTICE TO THE DEFENDANT: In the name of the People of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to file a written answer with the court and serve a copy on the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

| | | | |
|--------|----------------------|-------------|---|
| Issued | This summons expires | Court clerk | ISSUED 06/14/18 EXPIRE 09/13/18 T. Jackson-Davis |
|--------|----------------------|-------------|---|

Family Division Cases (The following is information required in the caption of every complaint and is to be completed by the plaintiff.)

- ☐ This case involves a minor who is under the continuing jurisdiction of another Michigan court. The name of the court, file number, and details are on page ____ of the attached complaint.
- ☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- ☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in ____ Court.

The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

| | | |
|------------|-------|---------|
| Docket no. | Judge | Bar no. |
|------------|-------|---------|

Civil Cases (The following is information required in the caption of every complaint and is to be completed by the plaintiff.)

- ☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- ☐ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☒ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in US Bankruptcy Ct Court.

The action ☐ remains ☒ is no longer pending. The docket number and the judge assigned to the action are:

| | | |
|------------------------|---------------------------|---------|
| Docket no. 13-53846 | Judge Thomas J. Tucker | Bar no. |
|------------------------|---------------------------|---------|

VENUE

| | |
|--|--|
| Plaintiff(s) residence (include city, township, or village) Detroit | Defendant(s) residence (include city, township, or village) Detroit |
| Place where action arose or business conducted Detroit | |

Date

6-13-18

Signature of attorney/plaintiff

Richelle C. Lester P53383

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**STATE OF MICHIGAN
IN THE 36th DISTRICT COURT**

PAMELA BOOKER

Plaintiff,

v.

Case No. 18-158792 CH
Hon. Judge K. Robbins

CITY OF DETROIT, A Michigan
Municipal Corporation,

Defendant.

RICHELLE C. LESTER P53383
Law Office of Richelle C. Lester, PLLC
Attorney for Plaintiff
24901 Northwestern Hwy, Suite 302
Southfield, MI 48075
248-915-8990
attorneyrichelle@gmail.com

COMPLAINT

NOW COMES, Plaintiff, PAMELA BOOKER, by and through her attorneys, Law Office of Richelle C. Lester, and present the following as their Complaint:

1. Plaintiff, Pamela Booker ("Ms. Booker") is an individual residing in Detroit, Wayne County, Michigan.
2. Defendant, City of Detroit ("City") is a Michigan municipal corporation located in the County of Wayne, State of Michigan.
3. Venue is proper as the incidents complained of occurred in Detroit, Wayne County, Michigan.
4. Venue is proper as the amount in controversy does not exceed \$25,000.
5. Venue is also proper pursuant to MCL 600.1621(a) and MCL 600.1627.
6. On April 13, 2013, Defendant owned the property located at 15737 Lamphere, Detroit, Michigan 48223 ("the City Property").

7. On April 13, 2018, Plaintiff owned the property located next to the City Property at 15741 Lamphere, Detroit, Michigan 48223 ("Ms. Booker's Property") and operated it as a rental property.
8. On April 13, 2018, a dead tree fell from the City Property onto the roof of Plaintiff's Property causing damage to the roof, gutters, chimney, living room, bathroom and kitchen among other things.
9. Ms. Booker notified the City that the tree fell on Ms. Booker's property. The City did not remove the dead tree from Ms. Booker's Property leaving her with no other option but to hire a tree removal company to remove it.
10. On February 20, 2014, Ms. Booker filed a claim in Bankruptcy Court for \$5,450 with the United States Bankruptcy Court Eastern District Southern Division because the City was under a Chapter 9 Bankruptcy, Case No. 13-53846 before the Honorable Judge Thomas J. Tucker.
11. Ms. Booker's claim only included exterior damage to Ms. Booker's Property.
12. On or around July 21, 2005, Ms. Booker filed a Corrected Claim with the Bankruptcy Court for \$21,250 to include interior damage, tree removal and other expenses.
13. The City filed Objections to both of Ms. Booker's claims.
14. On May 23, 2018, a hearing was held in Bankruptcy Court on the City's Objections to Ms. Booker's claims.
15. The Honorable Judge Thomas J. Tucker sustained the City's Objections, and with respect to Ms. Booker's claim ordered her to file a lawsuit in a non-bankruptcy court by June 22, 2018 or her claim would be disallowed in Bankruptcy Court.
16. As a result of the tree falling onto the top of her house, Ms. Booker has suffered damage to Ms. Booker's Property in the amount of twenty-one thousand two hundred fifty dollars (\$21,250).

COUNT 1
MCL 691.1413 PROPRIETARY OR
NONGOVERNMENTAL FUNCTION EXCEPTION

17. Defendant the City, owned the City Property because it was forfeited due to non-payment of property taxes.
18. The purpose of the City Property is to produce a pecuniary profit to sell it for an investment for the City.

19. The City Property is not an activity that is usually supported by taxes or fees.
20. On April 13, 2018, the City's Property maintained a dead tree without removing it from the premises. The City knew or should have known that the tree was a hazard and would break and/or fall causing damages.
21. On April 13, 2018, the dead tree fell on Ms. Booker's property causing damages as detailed above.
22. Ms. Booker notified the City that the tree had fallen on Ms. Booker's property, but the City never removed the tree from her house. Ms. Booker was forced to hire a tree removal company to remove the tree from Ms. Booker's property.
23. Because the serious damages suffered by Ms. Booker's property arose out of performance of a proprietary function by the City, Defendants have no immunity, MCL 691.1413.

COUNT II
MCL 691.1406 GROSS NEGLIGENCE

24. Plaintiffs reallege and incorporate by reference all the above paragraphs.
25. The City is the governmental agency having jurisdiction and control over the City Property where the dead tree was planted.
26. Defendant had a duty, under MCL 691.1406, to repair and maintain the City Property and to prevent and protect against dangers and defective conditions.
27. Defendant breached its statutory duty by failing to remove the dead tree from the City's Property, and once it fell on Ms. Booker's property, failing to remove it from off of Ms. Booker's property.
28. The dead tree was a dangerous and defective condition.
29. The City had actual and/or constructive knowledge of the alleged dangerous and defective conditions of the City property because the defects were readily observable to an ordinarily observant person for 90 days or more before the date of the accident.
30. The City failed to remedy the dangerous and defective conditions after it knew or should have known of the defective conditions.
31. As a proximate cause of the dangerous and defective condition of the City Property, the tree fell on Ms. Booker's property causing damages as detailed above.

WHEREFORE, Plaintiff respectfully request that this Court grant the following relief for Plaintiff and against Defendant:

- A. Award to the Plaintiff all actual damages sustained as a result of the Defendant's violation of MCL 691.1413, MCL 691.1406;
- B. Award to the Plaintiff incidental and consequential damages;
- C. Award Compensatory damages in the amount of to the Plaintiff in an amount currently estimated at twenty-one thousand two hundred fifty dollars (\$21,250.00) dollars, plus costs and attorney fees and that is sufficient to compensate Plaintiff for her actual, consequential, and incidental losses sustained as a result of Defendant's wrongful actions;
- E. Award costs, attorney fees, interest and such other relief as the Court deems just and proper.

Respectfully Submitted,

Dated: 06/13/2018



Richelle C. Lester P5333

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EXHIBIT 7: 36th DISTRICT COURT CASE DOCKET

36TH DISTRICT COURT



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| STATE OF MICHIGAN | | CASE NO: 18158792 | GC |
| 36TH JUDICIAL DISTRICT | REGISTER OF ACTIONS | | |
| | | | |
| | | | |

Court Address 421 MADISON AVENUE
DETROIT MI 48226

Court Telephone
(313) 965-5794

JUDGE OF RECORD: ADAMS, LYDIA NANCE,

P-51424

| | | Attorney |
|-----|---|--|
| P01 | PLAINTIFF (CLSD) | P-53383 |
| | BOOKER/PAMELA/ 16227 WILDEMERE DETROIT MI 48221 | LESTER, RICHELLE C., 24901 NORTHWESTERN HWY STE 302 SOUTHFIELD MI 48075 (248) 915-8990 |

| | | |
|-----|---|--|
| D01 | DEFENDANT (CLSD) | P-79922 |
| | CITY OF DETROIT, A MICHIGAN MUNICIPALITY TWO WOODWARD AVE. DETROIT MI 48226 | IBRAHIM, VERONICA RONNIE, 20750 CIVIC CENTER DR STE 400 SOUTHFIELD MI 48076 (248) 945-3838 |

| DATE | ACTIONS, JUDGMENTS, CASE NOTES | INITIALS |
|----------|---|------------------------------|
| 06/14/18 | | |
| P01 | SUMM & COMP FILED | LESTER, RICHELLE P-53383 803 |
| | | \$21,250.00 |
| D01 | SUMM & COMP BY PLAINTIFF ISSUED | 803 |
| | FILING FEE PAID \$160.00 RCPT # CH99877 | 803 |

| | CHECK TENDERED 1315 | 803 |
|----------------|--|----------|
| 06/19/18 | | |
| | P01 ADDRESS ADDED | 794 |
| | D01 ADDRESS ADDED | 794 |
| 07/12/18 | | |
| D01 | MOTION PAID | 847 |
| | MOTION FEE PAID \$20.00 RCPT # CD14019 | 847 |
| | CHECK TENDERED 28710 | 847 |
| D01 | MOTION FOR SUMMARY DISPOSITION FILED | 794 |
| D01 | ANSWER FILED IBRAHIM,VERONIC P-79922 | 794 |
| 07/13/18 | | |
| | DEFENDANT'S MOTION FOR SUMMARY DISPOSITION | 794 |
| | IN LIEU OF ANSWER AND FILE SENT TO JUDGE | 794 |
| | ROBBINS FOR REVIEW. | 794 |
| 07/26/18 | | |
| ALL | PRE-TRIAL SCHEDULED (CONF.) | 036 |
| | 09/04/18 09:30A | |
| ALL | NOTICE TO APPEAR ISSUED | 036 |
| 08/30/18 | | |
| | PLAINTIFF'S RESPONSE TO CITY OF DETROIT'S | 789 |
| | MOTION FOR SUMMARY DISPOSITION FILED/WITH | 789 |
| | PROOF OF SERVICE | 789 |
| | PLAINTIFF'S RESPONSE TO CITY OF DETROIT'S | 789 |
| | MOTION FOR SUMMARY DISPOSITION FILED/WITH | 789 |
| | PROOF OF SERVICE AND FORWARDED TO | 789 |
| | JUDGE ROBBINS WITHOUT THE FILE ON 08/31/18 | 789 |
| 09/04/18 | | |
| ALL | ORDER ENTERED | 036 |
| ALL | MOTION SCHEDULED (HEARING) | 036 |
| | 09/26/18 10:30A | |
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| | MOTION: STIPULATION AND ORDER TO DISMISS COUNT | 036 |
| | II. ORDER: PLAINTIFF AND DEFENDANT STIPULATE | 036 |
| | AND AGREE TO DISMISS COUNT II OF PLAINTIFF'S | 036 |
| | COMPLAINT. CASE CALLED, PARTIES PRESENT, | 036 |
| | COPIES GIVEN, JUDGE KEVIN ROBBINS/BTOMASI | 036 |
| | CSR 3098. | 036 |
| 09/14/18 | | |

| | | |
|---|--|-----|
| | CITY OF DETROIT'S REPLY TO PLAINTIFF'S | 727 |
| | RESPONSE FILED AND SENT W/O FILE TO JUDGE | 727 |
| | ROBBINS FOR REVIEW. | 727 |
| 09/26/18 | | |
| P01 | MOTION FOR SUMMARY DISPOSITION GRANTED | 036 |
| D01 | DISMISSAL WITH PREJUDICE ENTERED | 036 |
| | CASE CALLED, PLAINTIFF NOT PRESENT-COPY MAILED | 036 |
| | DEFENDANT PRESENT-COPY GIVEN, JUDGE KEVIN | 036 |
| | ROBBINS/AMARSZALEK CSR 3005. | 036 |
| 09/29/18 | | |
| | JUDGE OF RECORD/MAGISTRATE CHANGED | PGM |
| | FROM: 037632 ROBBINS,KEVIN F., | PGM |
| | TO: 051424 ADAMS,LYDIA NANCE, | PGM |
| *** END OF REGISTER *** 11/02/18 11:05 DCY 252 (6/82) CIVIL REGISTER OF ACTIONS | | |

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**EXHIBIT 8: ORDER GRANTING CITY OF DETROIT'S MOTION FOR
SUMMARY DISPOSITION**

) 36TH DISTRICT COURT)
421 MADISON
DETROIT, MICHIGAN 48226

Date: 9/26/18

Re: Pamela Booker

vs. City of Detroit

No. 18-158792

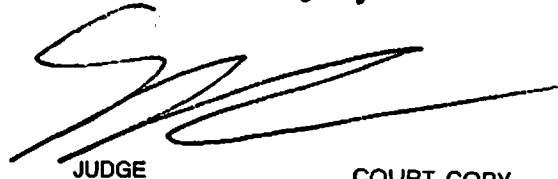
[Richelle C. Lester (P53383)
24901 Northwestern Hwy.
Suite 302
Southfield, MI 48075]
248-915-8990

Motion

Order: City of Detroit's Motion for Summary Disposition in
Lieu of an Answer

For the reasons stated on the record on
September 26, 2018 the City's Motion is granted
and Plaintiff's complaint is dismissed with prejudice.
This is a final order and closes the case.

[Michael L. Auten (P81884)
2 Woodward Ave.
Suite 500
Detroit, MI 48226]
313-237-5244



JUDGE

COURT COPY

36DC-135 BL (7-95)